

## Department of Defense

FAR and DFARS numbering, except department/agency supplemental numbering uses subsection numbering of 90 and up, instead of 70 and up.

TABLE 1-1—DFARS NUMBERING

| FAR            | Is implemented as | Is supplemented as    |
|----------------|-------------------|-----------------------|
| 19             | 219               | 219.70                |
| 19.5           | 219.5             | 219.570               |
| 19.501         | 219.501           | 219.501-70            |
| 19.501-1       | 219.501-1         | 219.501-1-70          |
| 19.501-1(a)    | 219.501-1(a)      | 219.501-1(a)(S-70)    |
| 19.501-1(a)(1) | 219.501-1(a)(1)   | 219.501-1(a)(1)(S-70) |

[56 FR 36284, July 31, 1991, as amended at 64 FR 51074, Sept. 21, 1999]

### 201.304 Agency control and compliance procedures.

Departments and agencies and their component organizations may issue acquisition regulations as necessary to implement or supplement the FAR or DFARS.

(1)(i) Approval of the Under Secretary of Defense (Acquisition and Technology) (USD(A&T)) is required before including in a department/agency or component supplement, or any other contracting regulation document such as a policy letter or clause book, any policy, procedure, clause, or form that—

(A) Has a significant effect beyond the internal operating procedures of the agency; or

(B) Has a significant cost or administrative impact on contractors or offerors.

(ii) Except as provided in paragraph (2) of this section, the USD(A&T) has delegated authority to the Director of Defense Procurement (USD(A&T)DP) to approve or disapprove the policies, procedures, clauses, and forms subject to paragraph (1)(i) of this section.

(2) In accordance with Section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425), a new requirement for a certification by a contractor or offeror may not be included in a department/agency or component procurement regulation unless—

(i) The certification requirement is specifically imposed by statute; or

(ii) Written justification for such certification is provided to the Secretary of Defense by USD(A&T), and the Sec-

## 201.402

retary of Defense approves in writing the inclusion of such certification requirement.

(3) Approval of USD(A&T)DP is required for any class deviation (as defined in FAR Subpart 1.4) from the FAR or DFARS, before its inclusion in a department/agency or component supplement or any other contracting regulation document such as a policy letter or clause book.

(4) Each department and agency shall develop and, upon approval by USD(A&T)DP, implement, maintain, and comply with a plan for controlling the use of clauses other than those prescribed by FAR or DFARS.

(5) Departments and agencies shall submit request for the Secretary of Defense, USD(A&T), and USD(A&T)DP approvals required by this section through the Director of the DAR Council.

(6) The Director of Defense Procurement publishes changes to the DFARS in the FEDERAL REGISTER and electronically via the World Wide Web. Each change includes an effective date. Unless guidance accompanying a change states otherwise, contracting officers must include any new or revised clauses, provisions, or forms in solicitations issued on or after the effective date of the change.

[56 FR 36284, July 31, 1991, as amended at 60 FR 61591, Nov. 30, 1995; 63 FR 11528, Mar. 9, 1998; 64 FR 39430, July 22, 1999]

### Subpart 201.4—Deviations From the FAR

#### 201.402 Policy.

(1) The Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition and Technology), USD(A&T)DP, is the approval authority within DoD for—

(i) Any individual deviation from—

(A) FAR 3.104, Procurement Integrity, or DFARS 203.104, Procurement Integrity;

(B) FAR Subpart 27.4, Rights in Data and Copyrights, or DFARS Subpart 227.4, Rights in Data and Copyrights;

(C) FAR Part 30, Cost Accounting Standards Administration, or DFARS Part 230, Cost Accounting Standards Administration;

(D) FAR Subpart 31.1, Applicability, or DFARS Subpart 231.1, Applicability (contract cost principles);

(E) FAR Subpart 31.2, Contracts with Commercial Organizations, or DFARS Subpart 231.2, Contracts with Commercial Organizations; or

(F) FAR Part 32, Contract Financing (except Subparts 32.7 and 32.8 and the payment clauses prescribed by Subpart 32.1), or DFARS Part 232, Contract Financing (except Subparts 232.7 and 232.8).

(ii) Any class deviation.

(2) Individual deviations.

(i) Except as provided in paragraph (2)(ii) of this section, individual deviations, other than those in paragraph (1)(i) of this section, must be approved in accordance with the department/agency plan prescribed by 201.304(4).

(ii) Contracting officers outside the United States are authorized to deviate from prescribed non-statutory FAR and DFARS clauses when contracting for support services, supplies, or construction, with the governments of North Atlantic Treaty Organization (NATO) countries or other allies (as described in 10 U.S.C. 2341(2)), or with United Nations or NATO organizations. This authority shall be exercised only if such governments or organizations will not agree to the standard clauses.

(3) Submit requests for deviation approval through department/agency channels to the approval authority in paragraph (1) or (2), as appropriate. Submit deviations which require USD(A&T)DP approval through the Director of the DAR Council. At a minimum, each request must—

(i) Identify the department/agency, and component if applicable, requesting the deviation;

(ii) Identify the FAR or DFARS citation from which a deviation is needed, state what is required by that citation, and indicate whether an individual or class deviation is requested;

(iii) Describe the deviation and indicate which of paragraphs (a) through (f) of FAR 1.401 best categorizes the deviation;

(iv) State whether the deviation will have a significant effect beyond the internal operating procedures of the agency and/or a significant cost or administrative impact on contractors or

offerors, and give reasons to support the statement;

(v) State the period of time for which the deviation is required;

(vi) State whether approval for the same deviation has been received previously, and if so, when;

(vii) State whether the proposed deviation was published (see FAR subpart 1.5 for publication requirements) in the FEDERAL REGISTER and provide analysis of comments;

(viii) State whether the request for deviation has been reviewed by legal counsel, and if so, state results; and

(ix) Give detailed rationale for the request. State what problem or situation will be avoided, corrected, or improved if request is approved.

[56 FR 36284, July 31, 1991, as amended at 60 FR 61591, Nov. 30, 1995; 61 FR 50451, Sept. 26, 1996; 64 FR 8727, Feb. 23, 1999]

#### **201.403 Individual deviations.**

See approval requirements in 201.402.

#### **201.404 Class deviations.**

See approval requirements in 201.402.

### **Subpart 201.6—Contracting Authority and Responsibilities**

#### **201.602 Contracting officers.**

##### **201.602–2 Responsibilities.**

Contracting officers may designate qualified personnel as their authorized representatives to assist in the technical monitoring or administration of a contract. A contracting officer's representative (COR)—

(1) Must be a Government employee, unless otherwise authorized in agency regulations.

(2) Must be qualified by training and experience commensurate with the responsibilities to be delegated in accordance with department/agency guidelines.

(3) May not be delegated responsibility to perform functions at a contractor's location that have been delegated under FAR 42.202(a) to a contract administration office.

(4) May not be delegated authority to make any commitments or changes that affect price, quality, quantity, delivery, or other terms and conditions of the contract.